

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EDGARDO COLON)
)
)
 v.) Civil Action No. 04-10280-NG
)
)
 UNITED STATES OF AMERICA)

GOVERNMENT'S SUPPLEMENTAL OPPOSITION
TO PETITIONER'S MOTION TO AMEND

The government is submitting this supplemental memorandum for the sole purpose of alerting the Court to the First Circuit's decision in Cuevas v. Derosa, 2004 WL 2367356 (1st Cir. October 22, 2004). That decision denied an application for leave to file a second or successive 2255 petition because the Supreme Court has not yet made Blakely retroactive to cases on collateral. Because Cuevas controls the disposition of the defendant's motion to amend, that motion should be denied without prejudice to Colon's right to seek to assert a Blakely claim in the event that the Supreme Court makes Blakely retroactive at some point in the future.

Respectfully submitted,

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